IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ABS-CBN CORPORATION, a Philippines Corporation, ABS-CBN FILM PRODUCTIONS, INC. d/b/a STAR CINEMA, a Philippines Corporation, and ABS-CBN INTERNATIONAL, a California Corporation, Plaintiffs, v. MARK ORVEN MERCADO, an Individual and PINOY GRILL, LLC, an Illinois Limited Liability Company, Defendants.	Case No. 16-cv-11448

COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

Plaintiffs, ABS-CBN Corporation, ABS-CBN Film Productions, Inc. d/b/a Star Cinema, and ABS-CBN International (collectively, "ABS-CBN" or "Plaintiffs"), hereby sue Defendants, Mark Orven Mercado ("Defendant Mark Mercado"), an individual, and Pinoy Grill, LLC, a limited liability company ("Pinoy Grill") (collectively "Defendants"). Defendants are engaged in a scheme to advertise, promote, distribute, offer for sale and sell modified and/or illegal devices and equipment, under counterfeits and infringements of ABS-CBN's trademarks, for the purpose of intercepting, receiving, divulging, publishing, and rebroadcasting Plaintiffs' private communications without authorization via circumvention of ABS-CBN's technological access control measures. In support of their claims, Plaintiffs allege as follows:

INTRODUCTION

1. This lawsuit involves the importation, modification, trafficking in, advertisement, promotion, offering for sale, sale, distribution, possession and/or use of illegal devices and equipment designed to access ABS-CBN's protected communications and circumvent ABS-CBN's technological access control measures, ultimately allowing for the free viewing of ABS-CBN's other copyrighted content, trademark infringement, false designation of origin, and false advertising. Federal and state law prohibit the importation, sale, distribution, trafficking, assembly, modification, possession and/or use of the devices, equipment, and technology in question. ABS-CBN brings this lawsuit seeking damages and injunctive relief against Defendants for the sale, distribution, trafficking, assembly, modification, possession of illegal devices, equipment, and technology, unauthorized access to its communication signals, trademark infringement, false designation of origin, and false advertising.

JURISDICTION AND VENUE

2. This is an action seeking damages and injunctive relief for unauthorized reception of communications services, unauthorized publication or use of communications, sale of illegal devices and equipment used to access such communications and circumvent technological access control measures, federal trademark counterfeiting and infringement, and false designation of origin and false advertising under 47 U.S.C. § 605(a) and (e)(4); 17 U.S.C. § 2501; 18 U.S.C. § 2511(1); 15 U.S.C. §§ 1114, 1116, 1125(a), and The All Writs Act, 28 U.S.C. § 1651(a) (collectively the "Federal Claims") and 720 ILCS 5/16-18 (the "State Claim").

3. Accordingly, this Court has subject matter jurisdiction over the Federal Claims under 28 U.S.C. §§ 1331, 1338, 47 U.S.C. § 605(e)(3)(A), 17 U.S.C. § 1203, 18 U.S.C. § 2520(a), and 15 U.S.C. § 1121. This Court has supplemental jurisdiction under 28 U.S.C. § 1367

over the State Claim, because the claim is so related to the other claims in this action, over which this Court has original jurisdiction, that it forms part of the same case or controversy under Article III of the United States Constitution. Venue is proper in this Court pursuant 28 U.S.C. § 1391 because a substantial portion of the alleged unlawful conduct occurred within the Northern District of Illlinois ("District") and Defendants all reside and conduct business within this District.

THE PARTIES

4. Plaintiff ABS-CBN Corporation is a public corporation organized under the laws of the Republic of the Philippines (the "Philippines") with its principal place of business in Quezon City, Philippines. Plaintiff ABS-CBN Film Productions, Inc. is a wholly-owned subsidiary of ABS-CBN Corporation and is a corporation organized under the laws of the Philippines with its principal places of business in Quezon City, Philippines.

5. Plaintiff ABS-CBN International is a corporation organized under the laws of California and is a wholly-owned subsidiary of ABS-CBN Corporation with its principal place of business located at 150 Shoreline Drive, Redwood City, California 94065.

6. Defendant Mark Mercado is an individual, who, upon information and belief, resides at 26296 North Green Street, Mundelein, Illinois 60060, and conducts business within this District.

7. Defendant Pinoy Grill is an active limited liability company organized under the laws of the State of Illinois with its address and principal place of business at 2324 East Rand Road, Arlington Heights, Illinois 60004, located within this District located at 2324 East Rand Road, Arlington Heights, Illinois 60004. Defendant Pinoy Grill is a restaurant offering Filipino cuisine.

8. Upon information and belief, Defendant Mark Mercado conducts business in this District at Defendant Pinoy Grill.

9. Upon information and belief, Defendants have actively participated in the wrongful conduct described herein within this District.

COMMON FACTUAL ALLEGATIONS

10. Plaintiff ABS-CBN International is, and at all times relevant hereto has been, the registered owner of the following trademark, which is valid and registered on the Principal Register of the United States Patent and Trademark Office (the "ABS-CBN Registered Mark"):

Trademark	**Registration Number**	**Registration Date**	**Class/Services**
ABS-CBN	2,334,131	March 28, 2000	IC 038 – television broadcasting services via satellite and cable

The ABS-CBN Registered Mark is used in conjunction with the high-quality services in the categories identified above. A true and correct copy of the Certificate of Registration for the ABS-CBN Registered Mark is attached hereto as Exhibit "1."

11. The ABS-CBN Registered Mark has been used in interstate commerce for many years to identify and distinguish ABS-CBN's high quality services, including, but not limited to, broadcast distribution services, for an extended period of time and serves as a symbol of ABS-CBN's quality, reputation, and goodwill.

12. The ABS-CBN Registered Mark has never been assigned or licensed to the Defendants in this matter.

13. The ABS-CBN Registered Mark is a symbol of ABS-CBN's quality, reputation, and goodwill and has never been abandoned.

14. ABS-CBN International is also, and at all times relevant hereto has been, the owner of all rights in and to the following common law trademark (the "ABS-CBN Common Law Trademark"):

Trademark
ABS-CBN

The ABS-CBN Common Law Trademark is used in conjunction with high quality products and services, including broadcasting distribution services.

15. The ABS-CBN Common Law Trademark has been used in interstate commerce for many years to identify and distinguish ABS-CBN's high quality broadcasting distribution services and serves as a symbol of ABS-CBN's quality, reputation, and goodwill.

16. The ABS-CBN Common Law Trademark has never been assigned or licensed to the Defendants in this matter.

17. The ABS-CBN Common Law Trademark is a symbol of ABS-CBN's quality, reputation, and goodwill and has never been abandoned.

18. Together, the ABS-CBN Registered Mark and the ABS-CBN Common Law trademark are referred to herein as the "ABS-CBN Marks." ABS-CBN Corporation, ABS-CBN Film Productions, Inc., and ABS-CBN International all share exclusive rights in and to the ABS-CBN Marks. Moreover, ABS-CBN Corporation, ABS-CBN Film Productions, Inc., and ABS-CBN International Corporation are all licensed to use and enforce the ABS-CBN Marks.

19. ABS-CBN is the largest media and entertainment company in the Philippines. With its twelve large production studios, ABS-CBN produces over 2,430 hours of original

content every year for its numerous television stations, including daily drama teleseries, drama anthologies, movies, musical and variety shows, game shows, reality shows, news programs, current affairs programs, documentaries, music video 24/7 (Myx), AM talk radio with DJ live on-screen (DZMM), FM radio shows with DJ live on-screen (MOR), and public affairs programs. Every day, ABS-CBN's programming is broadcast worldwide through its agreements with dozens of cable companies' premium channels, telecom provider partnerships, Internet subscription services, and through its own 24-hour cable and satellite service, which offers pay-per-view programming. Defendants, through the sale of the illegal devices and equipment, are directly and unfairly competing with ABS-CBN's economic interests in the State of Illinois and causing ABS-CBN harm within this jurisdiction.

20. ABS-CBN relays direct signals from within the Philippines up to satellites in orbit above Earth. These signals are then broadcast back down to Earth. Thereafter, ABS-CBN's programming is received by authorized subscribers through the use of a private satellite dish connected to an indoor satellite box, which is then connected by a cable to a television monitor. This setup allows authorized subscribers to receive their ABS-CBN programming.

21. To prevent the unauthorized reception and use of ABS-CBN's broadcasts by individuals who have not paid for ABS-CBN's services, ABS-CBN employs encryption technology to digitally scramble the signal, making it unusable until it is descrambled. The satellite box is the component that makes descrambling possible. Every satellite box has a conditional access subsystem built directly into it, which allows for the descrambling of ABS-CBN's content. Each paying customer receives a unique entitlement management message from the satellite feed, which allows the conditional access subsystem to descramble the signal. This equipment and technology is referred to herein as the "encryption technology," and constitute

ABS-CBN's technological access control measures for their copyrighted content and communications.

DEFENDANTS' ILLEGAL ACTS

22. Upon information and belief, Defendants have been engaged in a scheme to distribute, and/or sell illegal devices, components, equipment, and/or technology for the purpose of receiving, intercepting, divulging, publishing, disclosing, and rebroadcasting ABS-CBN's protected communications without authorization from ABS-CBN via circumvention of ABS-CBN's encryption technology. Additionally, Defendants have used counterfeits and infringements of the ABS-CBN Marks in the promotion, advertisement and sale of such devices, components, equipment, and technology. Collectively, the devices, components, technology and equipment are referred to herein as the "illegal devices and equipment."

23. Upon information and belief, in order to gain access to ABS-CBN's protected communications and copyrighted content, Defendants' illegal devices and equipment are designed to access a legitimate subscriber's unlawful rebroadcast of ABS-CBN's communications. This process allows for the legitimate subscriber's box to decrypt ABS-CBN's copyrighted content and then download such content to a server in the People's Republic of China ("China"), which can then be accessed at any time using the "Video on Demand" ("VOD") feature of the illegal devices and equipment. Additionally, the illegal devices and equipment feature a "Hello Live" feature, which enables the viewing of live ABS-CBN broadcasts. Through Hello Live, Defendants' illegal devices and equipment obtain the legitimate subscriber's decrypted signal for the live stream. This system allows for the circumvention of ABS-CBN's encryption technology and the reception, disclosure, and publication of ABS-CBN's protected communications and copyrighted content.

24. Upon information and belief, each device or piece of equipment sold by and/or distributed by Defendants has been modified by one of the Defendants prior to sale to employ the above-described circumvention system.

25. Upon information and belief, and at all times relevant hereto, Defendants in this action have had full knowledge of the unauthorized nature of the illegal devices and equipment and full knowledge of ABS-CBN's ownership of the ABS-CBN Marks, including its exclusive rights to use and license such intellectual property and the goodwill associated therewith.

26. Upon information and belief, Defendants have been using the physical place of business of Defendant Pinoy Grill as the distribution center for selling the illegal devices and equipment (the "Pinoy Grill Location") to the consuming public.

27. ABS-CBN's investigators have purchased such illegal devices and equipment from Defendants in this District at the Pinoy Grill location.

28. Upon information and belief, Defendants have used Defendant Pinoy Grill's Facebook.com social media page to advertise and promote the availability of the illegal devices and equipment for sale by Defendants at the Pinoy Grill location.

29. Upon information and belief, in addition to the brick and mortar Pinoy Grill location, Defendants have created a Facebook.com social media page through which they offer to sell the illegal devices and equipment directly to customers through the Internet via Facebook.com's "ShopTab" application (the "Online Store").

30. Upon information and belief, Defendants have promoted the Online Store on Defendant Pinoy Grill's Facebook.com social media page.

31. Upon information and belief, Defendants have used counterfeits and infringements of the ABS-CBN Marks in connection with their Online Store and on signs within

Defendant Pinoy Grill to promote, advertise, offer for sale, and sell the illegal devices and equipment via the Internet and in-person sales.

32. Upon information and belief, Defendants are using ABS-CBN's famous name and trademarks to advertise, promote, distribute, and offer for sale the illegal devices and equipment at issue, thus increasing the value of their illegal distribution operation and decreasing the size and value of ABS-CBN's legitimate marketplace at ABS-CBN's expense.

33. In so advertising these devices and equipment, Defendants improperly and unlawfully use the ABS-CBN Marks without ABS-CBN's permission. Indeed, Defendants herein misappropriated ABS-CBN's advertising ideas and methods of doing business with regard to the advertisement and sale of ABS-CBN's genuine devices, equipment, and communications services. Upon information and belief, the misappropriation of ABS-CBN's advertising ideas in the form of the ABS-CBN Marks is the proximate cause of harm to ABS-CBN.

34. Defendants' use of the ABS-CBN Marks is without ABS-CBN's consent or authorization.

35. Upon information and belief, Defendants are actively using, promoting, and otherwise advertising, distributing, selling, and/or offering for sale substantial quantities of their illegal devices and equipment with the knowledge and intent that such illegal devices and equipment will be mistaken for devices and equipment genuinely sponsored by and/or sold by ABS-CBN, despite Defendants' knowledge that they are without the authority to use the ABS-CBN Marks. The net effect of Defendants' actions will cause confusion of consumers at the time of initial interest, sale, and in the post-sale setting, who will believe Defendants' illegal devices and equipment are genuinely associated with, originating from, or approved by ABS-CBN.

36. Defendants are engaging in the above-described illegal counterfeiting and infringing activities knowingly and intentionally or with reckless disregard or willful blindness to ABS-CBN's rights for the purpose of trading on ABS-CBN's goodwill and reputation. If Defendants' intentional counterfeiting and infringing activities are not preliminarily and permanently enjoined by this Court, ABS-CBN and the consuming public will continue to be harmed.

37. Defendants' above-identified infringing and illegal activities are likely to cause confusion, deception, and mistake in the minds of consumers and the public before, during, and after their purchase of the Defendants' illegal devices and equipment. Moreover, Defendant's wrongful conduct is likely to create a false impression and deceive customers and the public into believing there is a connection or association between ABS-CBN and Defendants' illegal devices and equipment, which there is not.

38. Upon information and belief, Defendants are conducting and targeting their counterfeiting and infringing activities towards consumers and causing harm, within this district and elsewhere throughout the United States. As a result, Defendants are defrauding ABS-CBN and the consuming public for Defendants' benefit.

39. Upon information and belief, Defendants have engaged in this activity for profit and for the purposes of their own private financial gain and commercial advantage. Defendants have sold these illegal devices and equipment to consumers in this District with specific intent and knowledge that such illegal devices and equipment would be used to circumvent ABS-CBN's encryption technology and therefore allow the reception, publication, and divulgence of ABS-CBN's communications by persons not paying for those services and persons not authorized to receive those services, thus causing irreparable harm and damages to ABS-CBN.

40. Upon information and belief, Defendants distributed these illegal devices and equipment to persons within this District knowing or having reason to know that such devices and equipment were designed to be used for the unauthorized reception of ABS-CBN's communications services via circumvention of ABS-CBN's encryption technology.

41. Upon information and belief, by using the illegal devices and equipment sold by Defendants, an individual may circumvent ABS-CBN's encryption technology to view all of ABS-CBN's communications services, including premium programming, on-demand services, and pay-per-view movies and events, without paying the monthly and/or per event fee for such programming. If Defendants' above described illegal activities are not preliminary and permanently enjoined by this Court, ABS-CBN will continue to be harmed.

42. Defendants are engaging in the above-described illegal counterfeiting and infringing activities knowingly and intentionally or with reckless disregard or willful blindness to ABS-CBN's rights for the purpose of trading on ABS-CBN's goodwill and reputation. If Defendants' intentional counterfeiting and infringing activities are not preliminarily and permanently enjoined by this Court, ABS-CBN and the consuming public will continue to be harmed.

43. Defendants' above-identified infringing and illegal activities are likely to cause confusion, deception, and mistake in the minds of consumers and the public before, during, and after their purchase of the Defendants' illegal devices and equipment. Moreover, Defendant's wrongful conduct is likely to create a false impression and deceive customers and the public into believing there is a connection or association between ABS-CBN and Defendants' illegal devices and equipment, which there is not.

44. ABS-CBN has no adequate remedy at law.

45. ABS-CBN is suffering irreparable injury and has suffered substantial damages and a result of Defendants' unauthorized and illegal activities. If Defendants' illegal activities are not preliminarily and permanently enjoined by this Court, ABS-CBN will continue to be harmed.

46. The injury and damages sustained by ABS-CBN has been directly and proximately caused by Defendants' wrongful and illegal behavior as described herein and the very existence of Defendants' illegal marketplace enterprise.

COUNT I – VIOLATION OF 47 U.S.C. SECTION 605(a) AND (e)(4)

47. ABS-CBN hereby repeats and re-alleges the allegations of Paragraphs 1 through 49 as if fully set forth herein.

48. 47 U.S.C. § 605(a) prevents the unauthorized publication or divulgence of the existence, contents, substance, purport, effect, or meaning thereof, of any transmissions or receptions, or assisting in such unauthorized publication or divulgence of transmissions or receptions, of various communications by radio or wire, such as the ABS-CBN communications at issue herein. 47 U.S.C. § 605(e)(4) specifically addresses illegal nature of the manufacture, assembly, modification, importation, exportation, sale, or distribution of devices or equipment to be used primarily for violations of 47 U.S.C. § 605(a), such as the illegal devices and equipment at issue herein.

49. Upon information and belief, Defendants publish and/or divulge the contents of a protected communication to persons not permitted to receive such communications. Additionally, upon information and belief, Defendants have engaged in the modification, import, sale and/or distribution of illegal devices and equipment which are primarily intended to publish and divulge ABS-CBN's protected communications to persons not intended to receive such communications. Defendants have engaged in these activities for their own commercial

advantage and/or private financial gain and with full knowledge of the primary nature of these illegal devices and equipment, as described above.

50. ABS-CBN's communications are protected from unauthorized theft and interception under 47 U.S.C. § 605(a).

51. ABS-CBN's programming signal is a private communication signal which is not intended for the use of the general public.

52. Defendants' modification, importation, sales, and/or distribution of the illegal devices and equipment which are primarily intended to publish and divulge ABS-CBN's protected communications to persons not intended to receive such communications via circumvention of ABS-CBN's encryption technology are violations of 47 U.S.C. §§ 605(a) and 605(e)(4).

53. Defendants' violations of 47 U.S.C. §§ 605(a) and 605(e)(4) were performed without the permission, authorization, or consent of ABS-CBN and were willful and for the purposes of commercial advantage and/or private financial gain. Defendants' actions are unjustly enriching Defendants at ABS-CBN's expense.

54. ABS-CBN is a "person aggrieved" by the Defendants' violations of 47 U.S.C. § 605, and is authorized to prosecute this Action under 47 U.S.C. § 605(e)(3)(A).

55. Defendants' violations of 47 U.S.C. § 605(a) and (e)(4) have injured ABS-CBN's ability to maximize the revenues which it seeks to derive from its communications services, as ABS-CBN has been deprived the benefit of subscribers to its communications services.

56. ABS-CBN has sustained irreparable harm, injury, and monetary damages caused by Defendants' conduct, and absent an entry of an injunction by this Court, ABS-CBN will

continue to suffer irreparable injury to its goodwill and business reputation as well as monetary damages.

57. ABS-CBN is entitled to costs, reasonable attorneys' fees, actual damages suffered, profits obtained by Defendants attributed to their illegal conduct, and/or statutory damages for each violation of 47 U.S.C. § 605(a) and (e)(4).

COUNT II – VIOLATION OF 17 U.S.C. SECTION 1201(a)(2) AND (b)(1)

58. ABS-CBN hereby repeats and re-alleges the allegations of Paragraphs 1 through 49 as if set fully herein.

59. 17 U.S.C. § 1201(a)(2) and (b)(1) prevent the importation, any offering to the public, provision, and/or trafficking in any technology, product, service, device, component, or part thereof that is primarily designed or produced, has only limited commercially significant purpose or use other than, or marketed by that individual or another acting in concert with that person's knowledge, for the purpose of circumventing technological measures designed to protect works such as ABS-CBN's copyrighted content at issue herein.

60. Upon information and belief, the illegal devices and equipment imported, offered to the public, provided, and/or trafficked in by Defendants are designed primarily for the circumvention of ABS-CBN's encryption technology- a technological measure that controls access to, copying and distribution of, ABS-CBN's copyrighted content, and are marketed by Defendants with full knowledge that the devices and equipment are used to circumvent ABS-CBN's encryption technology. Additionally, Defendants market such devices and equipment for the purpose of circumventing ABS-CBN's encryption technology.

61. Upon information and belief, Defendants are importing, offering to the public, providing, or otherwise trafficking in these illegal devices and equipment with full knowledge

that such illegal devices and equipment are used to circumvent and defeat ABS-CBN's conditional access technological measures which protect the copyrighted content on ABS-CBN's distribution platforms.

62. Defendants' actions constitute violations of 17 U.S.C. § 1201(a)(2) and (b)(1) and were performed without the permission, authorization, or consent of ABS-CBN.

63. Upon information and belief, Defendants' violations of 17 U.S.C. § 1201(a)(2) and (b)(1) were willful and for the purposes of commercial advantage and/or private financial gain. Defendants' actions are unjustly enriching Defendants at ABS-CBN's expense.

64. ABS-CBN is a "person injured" by the Defendants' violations of 17 U.S.C. § 1201(a)(2) and (b)(1), and is authorized to prosecute this action against the Defendants under 17 U.S.C. § 1203(a).

65. Defendants' violations of 17 U.S.C. § 1201(a)(2) and (b)(1) have injured ABS-CBN's ability to maximize the revenues which it seeks to derive from its communications services, as ABS-CBN has been deprived the benefit of subscribers to its communications services.

66. ABS-CBN has sustained irreparable harm, injury, and monetary damages caused by Defendants' conduct, and absent an entry of an injunction by this Court, ABS-CBN will continue to suffer irreparable injury to its goodwill and business reputation as well as monetary damages.

67. ABS-CBN is entitled to actual damages suffered, profits obtained by Defendants attributed to their illegal conduct, and/or statutory damages for each violation of 17 U.S.C. § 1201.

COUNT III – VIOLATION OF 18 U.S.C. SECTION 2511(1)

68. ABS-CBN hereby repeats and realleges the allegations of Paragraphs 1 through 49 as if set fully herein.

69. 18 U.S.C. § 2511(1) prevents the intentional interception of electronic communications or the procuring of any other persons to intercept such communications as well as the disclosure or intended disclosure to others of the contents of the intercepted electronic communications.

70. Upon information and belief, Defendants intentionally intercepted, endeavored to intercept, or procured any other persons to intercept electronic communications from ABS-CBN through their sale of the illegal devices and equipment. Defendants further disclosed or intended to disclose to others the contents of the electronic communications, knowing or having reason to know that the information was obtained through the interception of electronic communications in violation of 18 U.S.C. § 2511(1) through their sales of illegal devices and equipment.

71. Defendants' actions constitute violations of 18 U.S.C. § 2511(1) and were performed without the permission, authorization, or consent of ABS-CBN.

72. Upon information and belief, Defendants' violations of 18 U.S.C. § 2511(1) were willful and for the purposes of commercial advantage and/or private financial gain. Defendants' actions are unjustly enriching Defendants at ABS-CBN's expense.

73. ABS-CBN is a person whose electronic communications are being intercepted, disclosed, and/or intentionally used in violation of 18 U.S.C. § 2511. ABS-CBN is thus authorized to prosecute this action against the Defendants under 18 U.S.C. § 2520.

74. Defendants' violations of 18 U.S.C. § 2511(1) have injured ABS-CBN's ability to maximize the revenues which it seeks to derive from its communications services, as ABS-CBN has been deprived the benefit of subscribers to its communications services.

75. ABS-CBN has sustained irreparable harm, injury, and monetary damages caused by Defendants' conduct, and absent an entry of an injunction by this Court, ABS-CBN will continue to suffer irreparable injury to its goodwill and business reputation as well as monetary damages.

76. ABS-CBN is entitled to actual damages suffered, profits obtained by Defendants attributed to their illegal conduct and/or statutory damages for each violation of 18 U.S.C. § 2511(1).

COUNT IV – VIOLATION OF 720 ILCS 5/16-18(b)

77. ABS-CBN hereby repeats and re-alleges the allegations of Paragraphs 1 through 49 as if set fully herein.

78. 720 ILCS 5/16-18(b) prevents the theft of communications services, which is committed when an individual knowingly sells, offers, promotes or advertises for sale an unlawful communication devise for commission of a theft or to receive, disrupt, transmit, decrypt, or acquire, or facilitate the receipt, disruption, transmission, decryption or acquisition, of any communication service without the express consent or express authorization of the communication service provider; or modifies, alters, programs or reprograms a communication device for such purposes.

79. Upon information and belief, Defendants have engaged in the sale, and/or distribution of such illegal devices and equipment intended by Defendants to be used for the

unauthorized reception of ABS-CBN's communications services by circumventing ABS-CBN's encryption technology.

80. Upon information and belief, Defendants have offered to sell, sold, and advertised the sale of the illegal devices and equipment knowing or having reason to know that the devices and equipment were designed to be primarily used for the unauthorized reception of ABS-CBN's communications services via circumvention of ABS-CBN's encryption technology.

81. Upon information and belief, Defendants have engaged in the sale, distribution, and/or advertisement of illegal devices and equipment willfully or for the purposes of their own commercial advantage and/or personal financial gain. Defendants' actions are unjustly enriching Defendants at ABS-CBN's expense.

82. Upon information and belief, the illegal devices and equipment modified, and/or distributed by the Defendants are specifically designed to receive ABS-CBN's communications services without authorization, thereby permitting reception of ABS-CBN's copyrighted content without payment for services which would legitimately allow the user to access the copyrighted content.

83. ABS-CBN has not authorized or consented to the manufacturing, assembling, modifying, importing, exporting, marketing, selling, delivering, furnishing, shipping, renting, repairing, distributing, leasing, or use by Defendants of the aforementioned devices and equipment, nor has ABS-CBN authorized or consented to the interception or reception of its communications services without its authorization.

84. Defendants' sale, distribution, and/or advertisement of illegal devices and equipment for the theft and unauthorized reception of ABS-CBN's communications services are violations of 720 ILCS 5/16-18(b).

85. ABS-CBN is a "person aggrieved" by the Defendants' violations of 720 ILCS 5/16-18(b), and is authorized to prosecute this action against the Defendants under 720 ILCS 5/16-18(h)(1).

86. Defendants' violations of 720 ILCS 5/16-18(b) have injured ABS-CBN's ability to maximize the revenues which it seeks to derive from its communications services, as ABS-CBN has been deprived the benefit of subscribers to its communications services.

87. ABS-CBN has sustained irreparable harm, injury, and monetary damages caused by Defendants' conduct, and absent an entry of an injunction by this Court, ABS-CBN will continue to suffer irreparable injury to its goodwill and business reputation as well as monetary damages.

88. ABS-CBN is entitled to actual damages suffered, profits obtained by Defendants attributed to their illegal conduct and/or statutory damages for each violation of 720 ILCS 5/16-18(b).

COUNT V – TRADEMARK COUNTERFEITING AND INFRINGEMENT

89. ABS-CBN repeats and re-alleges every allegation contained in paragraphs 1 through 49 as if fully set forth herein.

90. 15 U.S.C. § 1114 prevents the use in commerce of any reproduction, counterfeit, copy, or colorable imitation of a registered mark in connection with the sale, offering for sale, distribution, and/or advertising of any goods or services on or in connection with which such use is likely to cause confusion, mistake, or to deceive.

91. Upon information and belief, Defendants have used counterfeits, copies, and/or colorable imitations of the ABS-CBN Marks on their Online Store and on signs in Defendant

Pinoy Grill in connection with their advertisement, promotion, offers to sell, and sale of the illegal devices and equipment at issue herein.

92. Specifically, upon information and belief, Defendants are using the ABS-CBN Marks to promote, advertise, offer for sale, and sell illegal devices and equipment which circumvent ABS-CBN's security measures in order to provide access to ABS-CBN's copyrighted content without payment for services that would allow legitimate access to such copyrighted content.

93. Defendants' counterfeiting and infringing use of the ABS-CBN Marks is likely to cause and actually is causing confusion, mistake, and deception among members of the general public as to the origin and quality of the illegal devices and equipment.

94. Defendants' unlawful actions have caused and are continuing to cause irreparable harm and unquantifiable damages to ABS-CBN and are unjustly enriching Defendants with profits at ABS-CBN's expense.

95. Defendant's above-described illegal actions constitute counterfeiting and infringement of the ABS-CBN Marks in violation of ABS-CBN's rights under Section 32 of the Lanham Act, 15 U.S.C. § 1114.

96. ABS-CBN has sustained irreparable harm, injury, and monetary damages caused by Defendants' conduct, and absent an entry of an injunction by this Court, ABS-CBN will continue to suffer irreparable injury to its goodwill and business reputation as well as monetary damages.

97. ABS-CBN is entitled to actual damages suffered, profits obtained by Defendants attributed to their illegal conduct and/or statutory damages for their counterfeiting and infringement under Section 32 of the Lanham Act, 15 U.S.C. § 1114.

COUNT VI – FALSE DESIGNATION OF ORIGIN AND FALSE ADVERTISING

98. ABS-CBN repeats and re-alleges every allegation contained in paragraphs 1 through 49 as if fully set forth herein.

99. Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a) prevents the use in commerce of any word, term, name, symbol, or device, or any combination thereof, or any false designation of origin, false or misleading description of fact, or false or misleading representation of fact which is either (A) likely to cause confusion, mistake, or deception as to the affiliation, connection, or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities by another person, or (B) in commercial advertising or promotion, misrepresents the nature, characteristics, qualities, or geographic origin of his or her or another person's goods, services, or commercial activities.

100. Upon information and belief, Defendants' illegal devices and equipment offered for sale and sold using copies of the ABS-CBN Marks have been advertised and promoted via signage in Defendant Pinoy Grill, Defendant Pinoy Grill's Facebook.com social media page, and Defendants' Online Store.

101. Defendants' illegal devices and equipment advertised, promoted, offered for sale, and sold using the ABS-CBN Marks are virtually identical to the distribution services and methods ABS-CBN offers. However, Defendants' illegal devices and equipment are different and likely inferior in quality. Accordingly, Defendants' activities are likely to cause confusion in the trade and among the general public as to at least the origin or sponsorship of their illegal devices and equipment.

102. Defendants, upon information and belief, have used in connection with their advertisement, offer for sale, and sale of their illegal devices and equipment, false designations of origin and false descriptions and representations, including words or other symbols and trade dress, which tend to falsely describe or represent such illegal devices and equipment and have caused such illegal devices and equipment to enter into commerce with full knowledge of the falsity of such designations of origin and such descriptions and representations, all to ABS-CBN's detriment.

103. Defendants, upon information and belief, have misrepresented, in their advertisement and promotion, the illegal nature of the devices and equipment they offer for sale under the ABS-CBN Marks, misleading customers as to the origin or source of such illegal devices and equipment, and through the use of the ABS-CBN Marks, create a misrepresentation that their illegal devices and equipment are sponsored, authorized, and/or endorsed by ABS-CBN.

104. Defendants have authorized infringing uses of the ABS-CBN Marks in Defendants' advertisement and promotion of their illegal devices and equipment. Defendants have misrepresented to members of the consuming public that the illegal devices and equipment being advertised and sold by them using the ABS-CBN Marks are genuine, non-infringing devices and equipment.

105. Defendants' violations of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a) have injured ABS-CBN's ability to maximize the revenues which it seeks to derive from its communications services, as ABS-CBN has been deprived the benefit of subscribers to its communications services.

106. ABS-CBN has sustained irreparable harm, injury, and monetary damages caused by Defendants' conduct, and absent an entry of an injunction by this Court, ABS-CBN will continue to suffer irreparable injury to its goodwill and business reputation as well as monetary damages and Defendants will continue to wrongfully reap profits at ABS-CBN's expense.

107. ABS-CBN is entitled to actual damages suffered, profits obtained by Defendants attributed to their illegal conduct and/or statutory damages for their violations of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

PRAYER FOR RELIEF

108. WHEREFORE, ABS-CBN prays that this Court enters judgment in its favor and against Defendants as follows:

a. Declare that Defendants' modification, importation, offering to the public, trafficking, sale, distribution, and/or possession of illegal devices and equipment, unauthorized interception, reception, divulgence, and publication of ABS-CBN's electronic communications, or their assistance in the performance of such unauthorized actions, is a violation of 47 U.S.C. § 605, 17 U.S.C. § 1201, 18 U.S.C. § 2511, and 720 ILCS 5/16-18(b);

b. In accordance with 47 U.S.C. § 605(e)(3)(B)(i), 17 U.S.C. § 1203(b)(1) and (2), and 720 ILCS 5/16-18(h)(2)(B), order the impounding of any devices and/or equipment that are the subject of statutory violations and, under 47 U.S.C. § 605(e)(3)(B)(i), 17 U.S.C. § 1203(b)(1) and (2), 18 U.S.C. § 2520(b)(1), and 720 ILCS 5/16-18(h)(2)(A) enter a temporary, preliminary, and permanent injunction enjoining Defendants and all persons in active concert or participation with them from: (i) manufacturing, modifying, trafficking in, possessing, importing, advertising or promoting, distributing, selling or offering to sell illegal equipment or devices; (ii) interfering with ABS-CBN's proprietary rights; (iii) manufacturing, intercepting, receiving, divulging, publishing, or displaying ABS-CBN's entertainment content without prior written consent of ABS-CBN; and (iv) acting in further violation of the above-described statutes.

c. Enter temporary, preliminary, and permanent injunctions pursuant to 15 U.S.C. § 1116 and Federal Rule of Civil Procedure 65 enjoining Defendants, their agents, representatives, servants, employees, and all those acting in concert or participation therewith, from infringing, counterfeiting, or diluting the ABS-CBN Marks; from using the ABS-CBN Marks, or any mark or trade dress similar thereto, in connection with the sale of any unauthorized goods or illegal devices and equipment; from using any logo, trade name or trademark or trade dress that may be calculated to falsely advertise the services, illegal devices and equipment, or goods of Defendants as being sponsored by, authorized by, endorsed by, or in any way associated with ABS-CBN; from falsely representing themselves as being connected with ABS-CBN, through sponsorship or association, or engaging in any act that is likely to falsely cause members of the trade and/or of the purchasing public to believe any devices, equipment, goods, or services of Defendants, are in any way endorsed by, approved by, and/or associated with ABS-CBN; from using any reproduction, counterfeit, infringement, copy, or colorable imitation of the ABS-CBN Marks in connection with the publicity, promotion, sale, or advertising of any devices, equipment, goods, and/or services sold by Defendants; from affixing, applying, annexing or using in connection with the sale of any devices, equipment, goods, and/or services, a false description or representation, including words or other symbols tending to falsely describe or represent Defendants' devices, equipment, goods, and/or services as being those of ABS-CBN, or in any way endorsed by ABS-CBN and from offering such devices, equipment, goods and/or services in commerce; and from otherwise unfairly competing with ABS-CBN;

d. Award ABS-CBN statutory damages in the amount of $100,000.00 for each violation of 47 U.S.C. § 605 plus an additional $100,000.00 for each violation of pursuant to 47 U.S.C.(e)(3)(C)(ii); alternatively, ABS-CBN requests judgment for actual damages, plus damages equal to any profits attributable to Defendants' violations of 47 U.S.C. § 605 plus an additional $100,000.00 for each violation pursuant to 47 U.S.C.(e)(3)(C)(ii);

e. Award ABS-CBN statutory damages in the amount of up to $2,500 for each violation of 17 U.S.C. § 1201 pursuant to 17 U.S.C. § 1203(c)(2) and (c)(3), or in the alternative, ABS-CBN requests judgment for actual damages, plus damages equal to any profits attributable to Defendants' violations of 17 U.S.C. § 1201;

f. Award ABS-CBN statutory damages in the amount of the greater of $10,000.00 total or $100 for each day Defendants violated 18 U.S.C. § 2511 pursuant to 18 U.S.C. § 2520, or in the alternative, ABS-CBN requests judgment for actual damages, plus damages equal to any profits attributable to Defendants' violations of 18 U.S.C. § 2511;

g. Award ABS-CBN statutory damages in the amount $10,000.00 for each illegal device, plus an additional $50,000.00 for each device of pursuant to pursuant to 720 ILCS 5/16-18(h)(3)(B) and 720 ILCS 5/16-18(h)(2)(C), or, pursuant to 720 ILCS

5/16-18(h)(3)(A) and 720 ILCS 5/16-18(h)(2)(C), award judgment for actual damages attributable to Defendants' violations of 720 ILCS 5/16-18(b);

h. Award ABS-CBN statutory damages in the amount of two million dollars ($2,000,000.00) per each counterfeit trademark used and product sold pursuant to 15 U.S.C. § 1117, or, in the alternative, ABS-CBN requests judgment for actual damages plus damages equal to any profits attributable to Defendants' violations of 15 U.S.C. § 1117.

i. Award ABS-CBN punitive or trebled damages provided by statutory law;

j. Award ABS-CBN its costs, including reasonable attorneys' fees, prejudgment and post judgment interest; and

k. Award any further relief as the Court may deem just and proper.

Dated: December 19, 2016

Respectfully submitted,

ABS-CBN Corporation, ABS-CBN Film Productions, Inc. d/b/a Star Cinema, and ABS-CBN International, Plaintiffs

/s/ Jason M. Kuzniar
One of their attorneys

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